

DATED 18 March **2025**

WORDSWORTH PROPERTY DEVELOPMENTS LIMITED

- and -

THE COUNCIL OF THE BOROUGH OF KIRKLEES

PLANNING OBLIGATION BY WAY OF AGREEMENT

**under Section 106 of the Town and Country
Planning Act 1990 (as amended) and all other enabling powers
relating to Land at Clough Farm, Long Lane, Earlsheaton, Dewsbury**

THIS DEED is made the 18 day of March 2025

BETWEEN:

- (1) **WORDSWORTH PROPERTY DEVELOPMENTS LIMITED** (Co. Regn. No. 04295612) Unit 1 Wordsworth Business Park Whaley Road, Barugh Green, Barnsley, South Yorkshire, England, S75 1FJ (the "Owner"); and
- (2) **THE COUNCIL OF THE BOROUGH OF KIRKLEES** of Town Hall, Huddersfield, West Yorkshire ("the Council")

WHEREAS

- (1) The Council is the local planning authority for the purposes of the 1990 Act in respect of the area within which the Site is situated and is the authority by whom the planning obligations hereby created are enforceable.
- (2) The Owner is the freehold owner of the Site currently registered at HM Land Registry under title number YY146938 pursuant to a transfer dated 11 March 2025 and undertakes to complete the registration of the title at HM Land Registry..
- (3) The Owner has submitted the Application to the Council for planning permission in relation to the Development.
- (5) The Council has resolved to grant the Planning Permission subject to the prior completion of this Deed.
- (6) The parties have agreed to enter into this Deed so as to create planning obligations in favour of the Council pursuant to Section 106 of the 1990 Act and to be bound by and observe and perform the covenants agreements conditions and stipulations hereinafter contained.

NOW THIS DEED WITNESSES AS FOLLOWS:

1. DEFINITIONS

For the purposes of this Deed the following words and expressions shall where the context so requires or admits have the following meanings:

- “1990 Act” means the Town and Country Planning Act 1990 (as amended)
- “Affordable Dwellings” means 100% (one hundred percent) of the Dwellings constructed on the Site being such mix of Dwellings as may be agreed in writing between the Owner and the Council from time to time and reference to "Affordable Dwelling" shall mean any of the Affordable Dwellings;
- “Affordable Housing Units” means for the purpose of this Agreement houses provided to eligible households whose needs are not met by the market in accordance with the definition in Annex II of the National Planning Policy Framework (or any successor publication or legislation in respect of Affordable Housing)
- “Application” means the planning application submitted to the Council by the Owner and registered by the Council under reference number 2024/91476 for the erection of 24 Dwellings.
- “Commencement of Development” means the date on which any material operation (as defined in Section 56(4) of the 1990 Act) forming part of the Development begins to be carried out other than (for the purposes of this Deed and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of

"Contributions"	services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and "Commence Development" shall be construed accordingly means the Public Open Space Contribution, and reference to "Contribution" shall be construed accordingly.
"Development"	means the development of the Site in pursuance of the Planning Permission.
"Dwelling"	means a residential unit that may be built on the Site as part of the development and references to "Dwellings" shall be construed accordingly
"Homes England"	means the National Housing and Regeneration Delivery Agency or any bodies undertaking the existing functions of the Homes England within the meaning of Part I of the Housing and Regeneration Act 2008 (or as redefined by any amendment, replacement or re-enactment of such Act);
"Index"	means the Building Costs Information All-In Tender Price Index published by the Royal Institution of Chartered Surveyors
"Index Linked"	means (where applicable) such increase on an annual basis or pro rata per diem from the date of this Deed to the date of payment based upon the Index last published before the date of the grant of Planning Permission or any publication substituted for it
"Interest Rate"	means interest at 4 (four) per cent above the base lending rate of the Bank of England from time to time;

“Maintenance Specification”

means a detailed written scheme to be submitted to the Council for approval for the future long-term management and maintenance of the Managed Areas to include but not limited to the following:

- (a) frequency of maintenance;
- (b) measures to replace any trees, shrubs or turf which may die or become diseased following implementation of the Maintenance Specification;
- (c) measures to maintain and repair hardstanding, facilities, equipment and means of enclosure and the standard of maintenance and repair to be achieved; and
- (d) public access arrangements
- (e) where proposed and applicable in the scheme the identity of the proposed Management Company and the proposed funding arrangements (by way of a service charge paid by the occupiers of any Dwelling on the Site or such other funding mechanism as may be agreed in writing with the Council) which will ensure the Management Company is able to undertake its Management Responsibilities

“Managed Areas”

means the land within the Site shown edged orange on drawing ref 0389_LON_109 annexed at the Third Schedule which is

proposed for open space and amenity purposes in connection with the Development as well as other incidental areas of landscaping (including incidental areas not within the private curtilage of Dwellings and internal roads)

“Managed Areas Inspection Fee” means the sum of £500 (five hundred pounds) to be paid to the Council by the Owner as a contribution towards the cost of the Council inspecting the Managed Areas in accordance with this Deed

“Managed Areas Scheme” means a written scheme to be submitted by the Owner to the Council for approval in writing which shall set out details of the laying out and landscaping of the Managed Areas, the timetable for such works and the Maintenance Specification (together with any variation of such scheme agreed in writing from time to time between the Owner and the Council)

“Management Company” means a limited liability company incorporated in England and Wales or Scotland with registered office in England or Scotland (as applicable) and registered at Companies House whose primary objects permit the ongoing maintenance of the Managed Areas and the Sustainable Drainage System (as applicable)

“Management Responsibilities” means the maintenance and management of the Managed Areas and/or the Sustainable Drainage System (as the case may be) in accordance with the approved Management Schemes

“Management Schemes” means the Managed Areas Scheme and the

Sustainable Drainage Management Scheme

National Planning Framework	Policy	means the National Planning Policy Framework Last updated in December 2023 (or any future guidance or initiative that replaces or supplements it);
"Occupation"		means occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and "Occupy" and "Occupied" shall be construed accordingly
"Plan"		means the plan annexed to this Deed
"Planning Permission"		means a full planning permission to be granted by the Council pursuant to the Application
"POS Contribution"		means the sum of £53,766 (fifty-three thousand, seven hundred and sixty six pounds) Index Linked such sum to be used by the Council towards the improvement of open space provision within the vicinity of the Site
"Practical Completion"		the issue of a certificate of practical completion by the Owner's architect or in the event that the Development is constructed by a party other than the Owner the issue of a certificate of practical completion by the other party's architect and "Practically Completed" shall be construed accordingly
"Registered Provider"		means a Registered Provider as defined in part 1 of the Housing Act 1996 (or as redefined by any amendment, replacement or re-enactment of such Act) who is registered with the Homes and Communities Agency pursuant to section 3

	of that Act and has not been removed from the register pursuant to Section 4 of that Act or any company or other body approved by the Homes England for receipt of social housing grant
“Site”	means the land known as Clough Farm, Long Lane, Earlsheaton, Dewsbury as shown for the purposes of identification only edged red on the Plan
“Sustainable Drainage Management Scheme”	means the scheme setting out arrangements for the future management and maintenance of the Sustainable Drainage System
“Sustainable Drainage System”	means a system for the provision of surface water drainage infrastructure for the Development which has been submitted to and approved by the Council pursuant to conditions relevant conditions of the Planning Permission
“Water Company”	means: (i) Yorkshire Water; or (ii) such other licenced water company that is regulated by The Water Services Regulation Authority (OFWAT);
“Working Days”	means any day except a Saturday, Sunday or any public holiday in England and Wales
“Yorkshire Water”	means Yorkshire Water Service Limited or any successor authority to its statutory functions under the Water Industry Act 1991.

2. CONSTRUCTION OF THIS DEED

- 2.1 Where in this Deed reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Deed.

- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.
- 2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually unless there is an express provision otherwise.
- 2.5 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans, regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.
- 2.6 References to any party to this Deed shall include the successors in title to that party and to any deriving title through or under that party and in the case of the Council any successor to its statutory functions.

3. LEGAL BASIS

- 3.1 This Deed is made pursuant to section 106 of the 1990 Act section 111 of the Local Government Act 1972 section 1 of the Localism Act 2011 and all other enabling powers.
- 3.2 The covenants, restrictions and requirements imposed upon the Owner under this Deed create planning obligations pursuant to section 106 of the 1990 Act which bind the Site and are enforceable by the Council as local planning authority against the Owner and their successors in title.

4. CONDITIONALITY

- 4.1 This Deed shall take effect upon the date hereof but the covenant from the Owner in clause 5 of this Deed is conditional upon:

- (a) the grant of the Planning Permission; and
- (b) the Commencement of Development

save for the provisions of paragraphs 1.1 and 2.1 of the First Schedule which shall come into effect immediately upon completion of this Deed.

5. THE OWNER'S COVENANT

- 5.1 The Owner covenants with the Council as set out in the First Schedule.

6. THE COUNCIL'S COVENANT

- 6.1 The Council covenants with the Owner as set out in the Second Schedule.

7. MISCELLANEOUS

- 7.1 The Owner shall pay to the Council on completion of this Deed the Council's reasonable legal costs incurred in the negotiation, preparation and execution of this Deed in the sum of £2000 (two thousand pounds).
- 7.2 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.
- 7.3 This Deed is given on the condition that following the performance and satisfaction of all the obligations contained in this Deed and upon the written request of the Owner the Council shall forthwith effect the cancellation of all entries made in the register of Local Land Charges in respect of this Deed.
- 7.4 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.
- 7.5 This Deed shall cease to have effect (insofar only as it has not been complied with) if the Planning Permission shall be quashed, revoked or otherwise

withdrawn or (without the consent of the Owner) it is modified by any statutory procedure other than a non-material amendment under section 96A of the 1990 Act or expires prior to Commencement of Development.

- 7.6 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed:
- (a) to the extent that such breach relates to any part of the Site in which that person has no interest; and/or
 - (b) which occurs after it shall have parted with its interest in the Site or if it be part only the part in respect of which such breach occurs but without prejudice to liability for any subsisting breach arising prior to parting with such interest for which it shall continue to be liable
- 7.7 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed.
- 7.8 Wherever this Deed requires the approval, agreement, determination or consent of the Council or the Owner such approval, agreement, determination or consent must be in writing and shall not be unreasonably withheld or delayed.
- 7.9 In the event that a condition or conditions to the Planning Permission is or are varied pursuant to Section 96A of the 1990 Act (and the Council is satisfied that no revised planning obligations are required as a result of such amendment) this Deed shall continue in full force in respect of the Planning Permission with the relevant condition or conditions as so varied.
- 7.10 In the event that an application is made pursuant to Section 73 of the 1990 Act for an amendment to the Planning Permission and planning permission is granted in respect of the application (and the Council is satisfied in its reasonable discretion that no revised planning obligations are required as a result of such amendment) references to the Planning Permission in this Deed shall be to both the Planning Permission and a new planning permission granted pursuant to Section 73 of the 1990 Act and this Deed

shall apply to and remain in full force in respect of that new planning permission without the need for a further agreement to be entered into pursuant to Section 106 of the 1990 Act.

- 7.11 This Deed shall not be enforceable against owner-occupiers or tenants of a Dwelling constructed pursuant to the Planning Permission nor against those deriving title from such owner-occupiers or tenants of such Dwelling.

8. REGISTRATION

- 8.1 This Deed shall be registered as a local land charge in the register of Local Land Charges maintained by the Council.

9. NOTICES

- 9.1 Any notice or other written communication to be served by one party upon any other pursuant to the terms of this Deed shall be deemed to have been validly served if delivered by hand or sent by pre-paid special or recorded delivery post to the party to be delivered at its address herein specified or such other address as may from time to time be notified for the purpose by notice served under this Deed specifically referring to this clause and the intention of the notice to notify an address thereunder.

10. DISPUTE RESOLUTION

- 10.1 In the event of any dispute or difference arising between any of the parties to this Deed in respect of any matter contained in this Deed which cannot be resolved by prior agreement between the parties such dispute or difference shall be referred to an independent and suitable person (the "Expert") holding appropriate professional qualifications to be appointed (in the absence of an agreement) by or on behalf of the president for the time being of the professional body chiefly relevant in England with experience of resolving such matters as may be in dispute and such person shall act as an expert whose decision shall be final and binding on the parties in the absence of manifest error and any costs shall be payable by the parties to the dispute in such proportion as the expert shall determine and failing such determination shall be borne by the parties in equal shares.

- 10.2 In the absence of an agreement as to the appointment or suitability of the person to be appointed pursuant to Clause 10.1 or as to the appropriateness of the professional body then such question may be referred by either party to the president for the time being of the Law Society for him to appoint a solicitor to determine the dispute such solicitor acting as an expert and his decision shall be final and binding on all parties in the absence of manifest error and his costs shall be payable by the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties in equal shares.
- 10.3 Any Expert howsoever appointed shall be subject to the express requirement that a decision was reached and communicated to the relevant parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than 28 (twenty-eight) Working Days after the conclusion of any hearing that takes place or 28 (twenty-eight) Working Days after he has received any file or written representation.
- 10.4 The Expert shall be required to give notice to each of the said parties requiring them to submit to him within 10 (ten) Working Days of notification of his appointment written submissions and supporting material and the other party will be entitled to make a counter submission within a further 10 (ten) Working Days.

11. WAIVER

- 11.1 No waiver (whether expressed or implied) by the Council or the Owner of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council or the Owner from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

12. JURISDICTION

- 12.1 This Deed is governed by and interpreted in accordance with the law of England and Wales.

13. DELIVERY

13.1 The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated.

14. If the Council does not receive payment of any money due under this Agreement on the due date the Owner will pay interest on the money concerned to the Council at the Interest Rate from the due date until the date of actual receipt by the Council provided that this sub-clause shall not prejudice any other right or remedy of the Council for the recovery of any money due.

FIRST SCHEDULE

Owner's Covenants

The Owner covenants with the Council in the following terms:

1. **Managed Areas**

- 1.1 Not to Commence Development permit or allow Commencement of the Development until the Managed Areas Scheme has been submitted to and approved in writing by the Council.
- 1.2 To lay out the Managed Areas in accordance with the specification and timetable approved under the Managed Areas Scheme.
- 1.3 Upon completion of the laying out of the Managed Areas the Owner shall notify the Council in writing that such works have been completed and invite the Council to inspect the same.
- 1.4 The Council shall inspect the Managed Areas within 14 (fourteen) Working Days of receipt of the relevant notice referred to in paragraph 1.3 of this First Schedule and if the Managed Areas have been laid out to the reasonable satisfaction of the Council it shall notify the Owner in writing thereof within 28 (twenty eight) Working Days of its inspection of such reasonable satisfaction provided that if the Council does not notify the Owner in writing within this period of such reasonable satisfaction the Council shall be deemed to have given its confirmation of the reasonably satisfactory completion of the laying out of the Managed Areas.
- 1.5 In the event that the Managed Areas have not been laid out to the reasonable satisfaction of the Council it shall notify the Owner in writing specifying the measures necessary to reasonably satisfactorily complete the Managed Areas and the Owner shall carry out those works and shall notify the Council pursuant to paragraph 1.3 of this First Schedule (with such procedure being repeated as often as is necessary until such time as the Council confirms satisfactory completion thereof).

- 1.6 Following written confirmation from the Council of the completion of the laying out of the Managed Areas to the Council's reasonable satisfaction pursuant to paragraph 1.4 the Owner shall thereafter comply with the approved Managed Areas Scheme and manage and maintain the Managed Areas for the lifetime of the Development in accordance with the Managed Areas Scheme and the Maintenance Specification.
- 1.7 The Owner or where applicable the Management Company may temporarily close or deny access to such part of the Managed Areas as may be necessary for emergency works, maintenance, repair, cleansing, renewal and any other necessary works including fitting out or structural or non-structural works.
- 1.8 Where the approved scheme entails any of the Management Responsibilities being undertaken by a Management Company The written agreement of the Council shall be sought in the event that the Management Company proposes to transfer the Managed Areas to another body or Management Company who is willing to accept the transfer on the condition detailed in paragraph 1.7 of this First Schedule.
- 1.9 The Owner covenants to pay to the Council the Managed Areas Inspection Fee prior to Commencement of Development and not to Commence permit or allow Commencement of the Development until the Managed Areas Inspection Fee has been paid to the Council

2. **Sustainable Drainage System**

- 2.1 Not to Commence Development permit or allow Commencement of the Development until the Sustainable Drainage Management Scheme has been submitted to and approved in writing by the Council.
- 2.2 The Owner shall comply with the approved Sustainable Drainage Management Scheme and ensure that the Sustainable Drainage System from the time of construction is maintained in accordance with the Sustainable Drainage Management Scheme and shall keep it maintained until such time as it is transferred either to the Water Company or where applicable in relation to the approved Sustainable Drainage Management

Scheme to a Management Company PROVIDED THAT it is agreed that it shall be a written term of any appointment of a Management Company that the transfer is on the condition that they shall manage and maintain the Sustainable Drainage System in accordance with the Sustainable Drainage Management Scheme and for the lifetime of the Development.

2.3 Where applicable in relation to the approved Sustainable Drainage Management Scheme any transfer of the Sustainable Drainage System to the Management Company shall be notified to the Council in writing within 5 (five) Working Days of the date that the transfer took place.

2.4 Where applicable in relation to the approved Sustainable Drainage Management Scheme the written agreement of the Council shall be sought in the event that the Management Company proposes to transfer the Sustainable Drainage System to another Management Company who is willing to accept the transfer on the condition that such Management Company shall manage and maintain the Sustainable Drainage System in accordance with the Sustainable Drainage Management Scheme and for the lifetime of the Development.

3. **POS Contribution**

3.1 To pay 50% (fifty per cent) of the POS Contribution to the Council prior to the first Occupation of any Dwellings.

3.2 Not to first Occupy any Dwellings until 50% (fifty per cent) of the POS Contribution has been paid to the Council.

3.3 To pay the remaining 50% (fifty per cent) of the POS Contribution to the Council prior to first Occupation of more than 12 (twelve) of the Dwellings.

3.4 Not to first Occupy more than 12 (12) Dwellings until the remaining 50% (fifty per cent) of the POS Contribution has been paid to the Council.

4 **Affordable Housing**

- 4.1 The Owner covenant with the Council that the Dwellings to be constructed within the Development will be 100% Affordable Housing Units and no part of the Site or any Dwellings on the Site shall be Occupied until the freehold ownership of the Site has been transferred to a Registered Provider:-

SECOND SCHEDULE

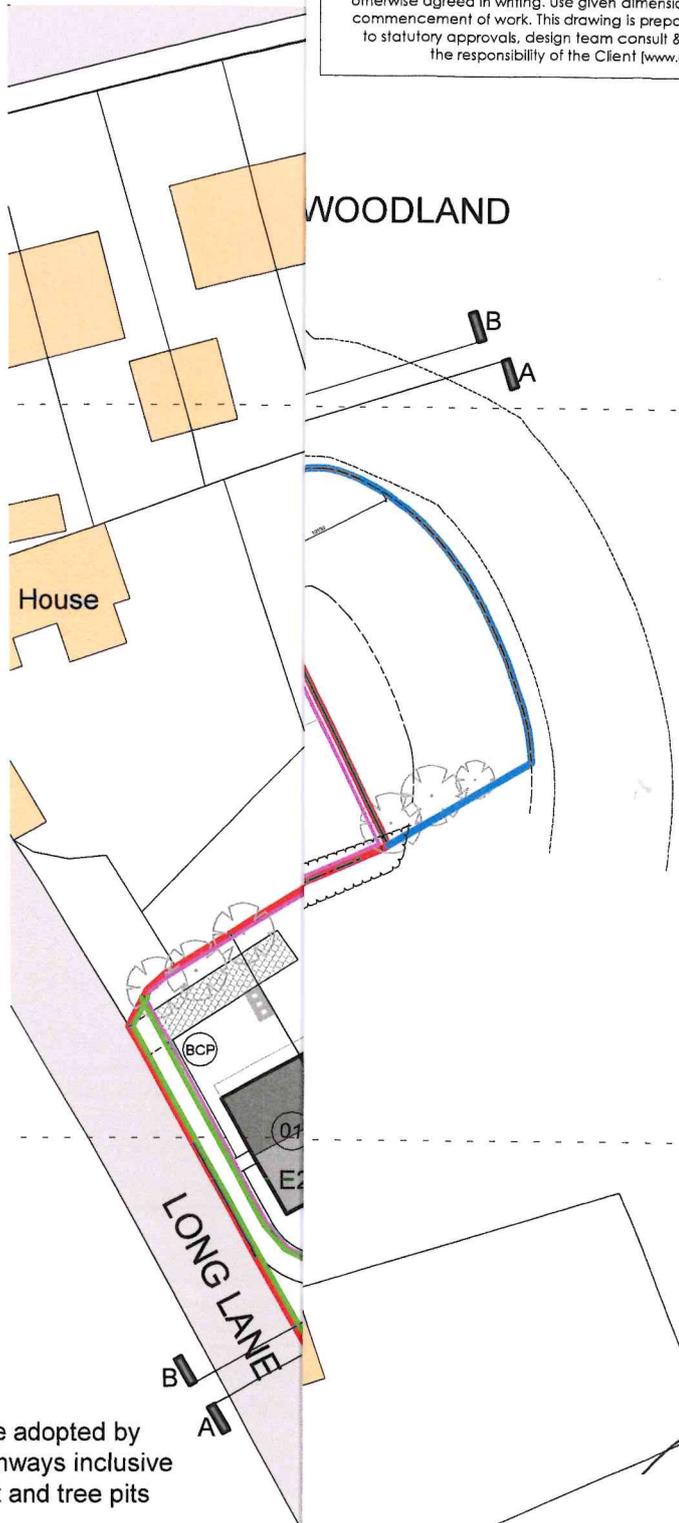
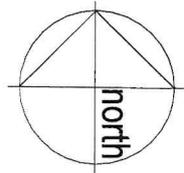
Council's Covenants

The Council covenants with the Owner in the following terms:

1. That it will following receipt of the written request of the Owner at any time or times after any of the obligations in this Deed have been discharged issue written confirmation thereof as soon as reasonably practicable or if the Planning Permission has expired or been quashed or revoked will cancel all relevant entries in the register of Local Land Charges as soon as reasonably practicable.
2. That it will apply the Managed Areas Inspection Fee solely for the purpose of inspecting the Managed Areas in accordance with the provisions of the First Schedule.
3. To use all sums received under the terms of this Deed for the purposes specified in this Deed for which they are to be paid and not to expend the sums for any other purposes and the Council shall (on the reasonable request of the payer or the payer's nominee) provide evidence that the monies have been so applied.
4. To pay to the Owner (or the payer if not the Owner) such part of any payment made to the Council under this Deed which has not been expended or allocated in accordance with the provisions of this Deed within ten years of the date of receipt by the Council of such payment PROVIDED that a payment or part thereof shall be deemed to be "*expended*" for the purposes of this paragraph where the Council has entered into an arrangement with any person which commits the Council to expending the said sum

THIRD SCHEDULE
(Managed Areas Plan)

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021959

OWNERSHIP LEGEND

- Green - Area to be adopted by Kirklees MBC Highways inclusive of road, pavement and tree pits
- Purple - Residential Plots to be handed over to Housing Group upon completion
- Orange - Areas to be managed and maintained by the Housing Group
- Red - Current site boundary as noted on Land Registry Plans

Notes:
 Unless indicated, this drawing is for information only.
 Do not scale, use figured dimensions only.
 All dimensions to be checked on site

- NON-ADJ
- BIN COLLECTOR
- COMMUN POINT

Drwg. No:	0389_LON_109
Status:	Planning (*)
Revision:	A

SITE PLAN
 1:500@A3

IN WITNESS WHEREOF the parties hereto have caused this Deed to be executed as a Deed on the day and year first before written

**THE CORPORATE COMMON SEAL of
THE COUNCIL OF
THE BOROUGH OF KIRKLEES**

was hereunto affixed in the presence of:-,



Director- Legal Governance and Commissioning /Authorised Signatory

:

**EXECUTED as a DEED by
WORDSWORTH PROPERTY
DEVELOPMENTS LIMITED** acting by a director in the presence of:

Director signature

Witness signature

Full name

Address